

U. S. District Court
Western District of Arkansas (Harrison)
CIVIL DOCKET FOR CASE #: 3:10-cv-03086-RTD
Internal Use Only

Stebbins v. Wal-Mart Stores, Inc.
Assigned to: Honorable Robert T. Dawson
Case in other court: 8th Circuit Court of Appeals, 11-01966
Cause: 28:794 Rehabilitation Act

Date Filed: 09/14/2010
Jury Demand: None
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff**David Stebbins**

represented by **David Stebbins**
1407 N. Spring Rd.
Apt #5
Harrison, AR 72601
870-204-6024
PRO SE

V.

Defendant

Wal-Mart Stores Arkansas LLC
also known as
Wal-Mart Stores, Inc.

represented by **Jeffrey L. Spillyards**
Mitchell, Williams, Selig, Gates
&Woodyard, PLLC
425 West Capitol Avenue
Suite 1800
Little Rock, AR 72201
(501) 688-8800
Fax: (501) 688-8807
Email: jspillyards@mwlaw.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Page	Docket Text
09/14/2010	<u>1</u>		COMPLAINT against Wal-Mart Stores, Inc., filed by David Stebbins.(lw) (Entered: 09/14/2010)
09/14/2010	<u>2</u>		MOTION for Leave to Proceed in forma pauperis and MOTION for Service by David Stebbins. (lw) (Entered: 09/14/2010)
09/14/2010			MOTIONS REFERRED: <u>2</u> MOTION for Leave to Proceed in forma pauperis MOTION for Service. Motions referred to Honorable Erin L. Setser.(lw) (Entered: 09/14/2010)
09/14/2010	<u>3</u>		ORDER granting <u>2</u> Motion for Leave to Proceed in forma pauperis. Further, plaintiff is advised that he has an

			obligation to keep the Court informed of any changes in his address. If he fails to do so and the Court receives returned mail, the case will be subject to dismissal. Signed by Honorable Erin L. Setser on September 14, 2010. (lw) (Entered: 09/14/2010)
09/14/2010			MOTIONS REFERRED: <u>2</u> MOTION for Service. Motions referred to Honorable James R. Marschewski.(lw) (Entered: 09/14/2010)
10/01/2010	<u>4</u>		MOTION to Amend <u>1</u> Complaint by David Stebbins. (jas) (Entered: 10/01/2010)
10/07/2010	<u>5</u>		ORDER granting <u>4</u> Motion to Amend. Plaintiff is directed to file his amended complaint within (10) days. Signed by Honorable Robert T. Dawson on October 7, 2010. (lw) (Entered: 10/07/2010)
10/15/2010	<u>6</u>		AMENDED COMPLAINT as to <u>1</u> Complaint against Wal-Mart Stores, Inc., filed by David Stebbins. (lw) Modified on 10/15/2010 to edit document (lw). (Entered: 10/15/2010)
10/27/2010	<u>7</u>		ORDER granting <u>2</u> Motion for Service and DIRECTING SERVICE on Wal-Mart Stores, Inc. Defendant is to answer within 21 days from the date of service. Signed by Honorable James R. Marschewski on October 27, 2010. (cc: U.S. Marshals Service-Certified)(lw) (Entered: 10/27/2010)
10/27/2010			(1) USM-285 Form Delivered to USMS re <u>7</u> Order on Motion for Service. (lw) (Entered: 10/27/2010)
11/04/2010	<u>8</u>		MOTION to Appoint Counsel by David Stebbins. (sh) (Entered: 11/04/2010)
11/04/2010	<u>9</u>		***DISREGARD SEE DOCUMENT <u>8</u> *** MOTION to Appoint Counsel by David Stebbins. (sh) Modified on 11/5/2010 to add text (lw). (Entered: 11/04/2010)
11/04/2010			TEXT ONLY ORDER REFERRING MOTIONS: <u>9</u> MOTION to Appoint Counsel filed by David Stebbins, <u>8</u> MOTION to Appoint Counsel filed by David Stebbins referred to United States Magistrate Judge Erin L. Setser for disposition or recommendation, whichever is appropriate. Signed by Honorable Robert T. Dawson on November 4, 2010. (ke) (Entered: 11/04/2010)
11/04/2010			TEXT ONLY MOTION for Service by David Stebbins. See Document <u>8</u> . (lw) (Entered: 11/05/2010)
11/04/2010			MOTIONS REFERRED: MOTION for Service. See Text only Order dated 11/4/10. Motions referred to Honorable Erin L. Setser.(lw) (Entered: 11/05/2010)
11/12/2010	<u>10</u>		SUMMONS Returned Executed by David Stebbins. Wal-Mart Stores, Inc. served on 10/29/2010, answer due

			11/19/2010. (Attachments: # <u>1</u> Green Card)(lw) (Entered: 11/12/2010)
11/15/2010	<u>11</u>		MOTION for Declaratory Judgment by David Stebbins. (lw) (Entered: 11/15/2010)
11/16/2010	<u>12</u>		MOTION to Withdraw <u>11</u> MOTION for Declaratory Judgment by David Stebbins. (lw) (Entered: 11/17/2010)
11/16/2010	<u>13</u>		ORDER REFERRING MOTION: <u>11</u> MOTION for Declaratory Judgment filed by David Stebbins. Signed by Honorable Robert T. Dawson on November 16, 2010. Motions referred to Erin L. Setser.(lw) (Entered: 11/17/2010)
11/17/2010			MOTIONS REFERRED: <u>12</u> MOTION to Withdraw <u>11</u> MOTION for Declaratory Judgment. Motions referred to Honorable Erin L. Setser per chambers.(lw) (Entered: 11/17/2010)
11/17/2010	<u>14</u>		<i>Answer to Plaintiff's Original Complaint and ANSWER to <u>6</u> Amended Complaint by Wal-Mart Stores, Inc..(Spillyards, Jeffrey)</i> (Entered: 11/17/2010)
11/17/2010			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant Wal-Mart Stores, Inc. Answer to Amended Complaint <u>14</u> lists multiple attorneys appearing for the filer. The following attorneys, who did not sign the pleading, must enter a separate Notice of Appearance in order to receive electronic notification of future activity in the case: Marshall Ney and Kathlyn Graves . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (lw) (Entered: 11/18/2010)
01/05/2011	<u>15</u>		ORDER finding the matters should be consolidated for all future purposes, including trial and all future pleadings shall be filed under one case number, Case No. 10-3086, and Case No. 10-3123 is dismissed. Signed by Honorable Robert T. Dawson on January 5, 2011. Associated Cases: 3:10-cv-03123-RTD(rw) (Entered: 01/05/2011)
01/07/2011	<u>16</u>		INITIAL SCHEDULING ORDER: Rule 26(f) Conference to be held by 2/21/2011. Rule 26(f) Meeting Report due by 3/18/2011. Bench Trial set for the week of 12/19/2011 in Harrison --- 2nd flr (Rm 231) before Honorable Robert T. Dawson. Signed by Honorable Robert T. Dawson on January 7, 2011. (ke) (Entered: 01/07/2011)
02/15/2011	<u>17</u>		Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins. (src) (Entered: 02/15/2011)
02/15/2011	<u>18</u>		Letter from Clerk to Mr. Stebbins regarding filing. (src) (Entered: 02/15/2011)
02/18/2011	<u>19</u>		MOTION to Correct Judicial Error by David Stebbins.

			(Attachments: # <u>1</u> Amended Complaint/Motion to Confirm Arbitration Award, # <u>2</u> Letter from Spillyards)(src) (Entered: 02/18/2011)
02/22/2011			TEXT ONLY ORDER REFERRING MOTION: <u>19</u> MOTION to Amend/Correct filed by David Stebbins. Signed by Honorable Robert T. Dawson on February 22, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/22/2011)
02/22/2011	<u>20</u>		RENEWED MOTION to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct by David Stebbins. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Exhibit, # <u>5</u> Exhibit, # <u>6</u> Exhibit, # <u>7</u> Exhibit, # <u>8</u> Exhibit)(jas) (Entered: 02/22/2011)
02/22/2011			TEXT ONLY ORDER REFERRING MOTION: <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct filed by David Stebbins. Signed by Honorable Robert T. Dawson on February 22, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/22/2011)
02/23/2011	<u>21</u>		MOTION for ECF and pacer account by David Stebbins. (rw) (Entered: 02/23/2011)
02/28/2011	<u>22</u>		MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011	<u>23</u>		MEMORANDUM BRIEF in Support of <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011	<u>24</u>		STATEMENT OF FACTS in support of <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 02/28/2011)
02/28/2011			TEXT ONLY ORDER REFERRING MOTION: <u>21</u> MOTION for ECF and pacer account filed by David Stebbins, <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc.. Signed by Honorable Robert T. Dawson on February 28, 2011. Motions referred to Erin L. Setser.(ms) (Entered: 02/28/2011)
03/01/2011			CLERK'S NOTICE re Multiple Attorneys Listed on Pleading directed to Defendant Wal-Mart Stores, Inc.. Motion for Partial Summary Judgment <u>22</u> lists multiple attorneys appearing for the filer. The following attorney(s), who did not sign the pleading, must enter a separate Notice of Appearance in order to receive electronic notification of

		future activity in the case: Marshall Ney, Kathryn Graves . TEXT ONLY ENTRY, NO DOCUMENT ATTACHED. (sh) (Entered: 03/01/2011)
03/01/2011	<u>25</u>	RESPONSE to Motion re <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct <i>and Incorporated Brief in Support</i> filed by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 03/01/2011)
03/03/2011	<u>26</u>	RESPONSE in Opposition re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by David Stebbins. (src) (Entered: 03/03/2011)
03/04/2011	<u>27</u>	SUPPLEMENT by Plaintiff David Stebbins to <u>26</u> Response in Opposition to Motion. (src) (Entered: 03/04/2011)
03/08/2011	<u>28</u>	REPLY to Response to Motion re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc.. (Spillyards, Jeffrey) (Entered: 03/08/2011)
03/10/2011	<u>29</u>	REPLY to Defendants' Suggestion, re <u>23</u> Memorandum Brief in Support, by David Stebbins. (lw) (Entered: 03/10/2011)
03/10/2011	<u>30</u>	REPLY to Defendants' Suggestion in Support by David Stebbins re <u>23</u> Memorandum Brief in Support. (lw) (Entered: 03/10/2011)
03/15/2011	<u>31</u>	SUPPLEMENT by Defendant Wal-Mart Stores, Inc. to <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> . (Attachments: # <u>1</u> Exhibit A-Letter from David Stebbins)(Spillyards, Jeffrey) (Entered: 03/15/2011)
03/18/2011	<u>32</u>	REPLY by David Stebbins re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> . (lw) (Entered: 03/18/2011)
03/18/2011	<u>33</u>	REPORT of Rule 26(f) Planning Meeting by Wal-Mart Stores, Inc.. (Attachments: # <u>1</u> Exhibit A-Letter to Mr. Stebbins, # <u>2</u> Exhibit B-Letter from Mr. Stebbins)(Spillyards, Jeffrey) (Entered: 03/18/2011)
03/21/2011	<u>34</u>	Second REPLY to Response to Motion re <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by David Stebbins. (src) (Entered: 03/21/2011)
04/11/2011	<u>35</u>	Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins (src) (Entered: 04/11/2011)
04/11/2011	<u>36</u>	Withdrawal of <u>35</u> Suggestion in Support of Motion to Confirm Arbitration Award by David Stebbins (src) (Entered: 04/11/2011)
04/12/2011	<u>37</u>	

		ORDER; directing clerk to note proper name of defendant on the docket sheet. Signed by Honorable Erin L. Setser on April 12, 2011. (lw) (Entered: 04/12/2011)
04/12/2011	<u>38</u>	ORDER denying <u>8</u> Motion to Appoint Counsel ; withdrawing <u>11</u> Motion for Declaratory Judgment; granting <u>12</u> Motion to Withdraw Motion; denying as moot <u>19</u> Motion to amend/correct; denying <u>21</u> Motion for ECF Account. Signed by Honorable Erin L. Setser on April 12, 2011. (src) (Entered: 04/12/2011)
04/14/2011	<u>39</u>	REPORT AND RECOMMENDATIONS re <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct filed by David Stebbins, <u>22</u> MOTION for Partial Summary Judgment <i>Related to Arbitration Claim</i> filed by Wal-Mart Stores, Inc. Objections to RRdue by 5/2/2011. Signed by Honorable Erin L. Setser on April 14, 2011. (lw) Modified on 4/15/2011 to edit Judge(lw). (Entered: 04/14/2011)
04/18/2011	<u>40</u>	OBJECTION to <u>39</u> Report and Recommendations by David Stebbins. (Attachments: # <u>1</u> Exhibit A Walmart.com page, # <u>2</u> Exhibit B Message board)(src) (Entered: 04/18/2011)
04/20/2011	<u>41</u>	ORDER adopting <u>39</u> Report and Recommendations in its entirety. Further denying <u>20</u> Renewed Motion to Confirm Arbitration Award; granting <u>22</u> Motion for Partial Summary Judgment Related to Arbitration Claim. Signed by Honorable Robert T. Dawson on April 20, 2011. (lw) (Entered: 04/20/2011)
04/20/2011	<u>42</u>	SUPPLEMENT by Plaintiff David Stebbins to <u>40</u> Objection to Report and Recommendations. (src) (Entered: 04/20/2011)
04/21/2011	<u>43</u>	Suggestion in Support of <u>20</u> MOTION Renew Motion to Confirm Arbitration Award re <u>19</u> MOTION to Amend/Correct by David Stebbins. (src) (Entered: 04/21/2011)
04/26/2011	<u>44</u>	MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment by David Stebbins. (src) (Entered: 04/26/2011)
04/26/2011	<u>45</u>	MEMORANDUM BRIEF in Support of <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations by David Stebbins. (Attachments: # <u>1</u> Exhibit A)(src) (Entered: 04/26/2011)
04/29/2011	<u>46</u>	MOTION to Confirm Arbitration Award by David Stebbins. (src) (Entered: 04/29/2011)
04/29/2011	<u>47</u>	MEMORANDUM BRIEF in Support of <u>46</u> MOTION to Confirm Arbitration Award by David Stebbins. (src)

			(Entered: 04/29/2011)
04/29/2011	<u>48</u>		NOTICE OF APPEAL as to <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment by David Stebbins. (cc via CM/ECF: Jeffrey L. Spillyards, via U.S. Postal Service: David Stebbins) (Attachments: # <u>1</u> Motion and Affidavit for Permission to Appeal In Forma Pauperis, previous IFP granted 9/14/10)(lw) (Entered: 04/29/2011)
04/29/2011	<u>49</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 04/29/2011)
04/29/2011	<u>50</u>		NOA SUPPLEMENT FORM re <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 04/29/2011)
05/02/2011	<u>51</u>		Suggestion in Support of <u>46</u> MOTION to Confirm Arbitration Award, and <u>44</u> MOTION for Reconsideration by David Stebbins. (lw) (Entered: 05/02/2011)
05/03/2011	<u>52</u>		USCA Case Number 11-1966, 8th Circuit Court of Appeals for <u>48</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 05/03/2011)
05/04/2011	<u>53</u>		ORDER of USCA requesting any portions of the original record which are not available in an electronic format through PACER be submitted within 10 days. There are no documents to send. (jn) (Entered: 05/04/2011)
05/10/2011	<u>54</u>		RESPONSE in Opposition re <u>46</u> MOTION to Confirm Arbitration Award <i>Response in Opposition to Plaintiff's Petition to Confirm Arbitration Award and Incorporation of Wal-Mart's Previously Filed Motion for Partial Summary Judgment</i> filed by Wal-Mart Stores Arkansas LLC. (Attachments: # <u>1</u> Exhibit 1)(Spillyards, Jeffrey) (Entered: 05/10/2011)
05/13/2011	<u>55</u>		MOTION for Summary Judgment by Wal-Mart Stores Arkansas LLC. (Attachments: # <u>1</u> Exhibit 1-Part 1, # <u>2</u> Exhibit 1-Part 2)(Spillyards, Jeffrey) (Entered: 05/13/2011)
05/13/2011	<u>56</u>		MEMORANDUM BRIEF in Support of <u>55</u> MOTION for Summary Judgment by Wal-Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/13/2011)
05/13/2011	<u>57</u>		STATEMENT OF FACTS in support of <u>55</u> MOTION for Summary Judgment <i>Statement of Undisputed Facts in Support of Wal-Mart's Motion for Summary Judgment</i> by Wal-Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/13/2011)
05/16/2011	<u>58</u>		MOTION to Strike <u>54</u> Response in Opposition to Motion, by David Stebbins. (src) (Entered: 05/16/2011)

05/16/2011	<u>59</u>		MEMORANDUM BRIEF in Support of <u>58</u> MOTION to Strike <u>54</u> Response in Opposition to Motion, by David Stebbins. (src) (Entered: 05/16/2011)
05/16/2011	<u>60</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment. (src) (Entered: 05/16/2011)
05/16/2011	<u>61</u>		Reply Suggestion to <u>46</u> MOTION to Confirm Arbitration Award. (src) (Entered: 05/16/2011)
05/18/2011	<u>62</u>		RESPONSE to Motion re <u>55</u> MOTION for Summary Judgment filed by David Stebbins. (tg) (Entered: 05/18/2011)
05/23/2011	<u>63</u>		REPLY to Response to Motion re <u>55</u> MOTION for Summary Judgment <i>Reply in Support of Wal-Mart's Motion for Summary Judgment</i> filed by Wal-Mart Stores Arkansas LLC. (Spillyards, Jeffrey) (Entered: 05/23/2011)
06/07/2011	<u>64</u>		SUPPLEMENT by Plaintiff David Stebbins to <u>46</u> MOTION to Confirm Arbitration Award, <u>44</u> MOTION for Reconsideration re <u>41</u> Order on Report and Recommendations, Order on Motion for Miscellaneous Relief, Order on Motion for Partial Summary Judgment. (lw) (Entered: 06/07/2011)
07/19/2011	<u>65</u>	9	ORDER denying <u>44</u> Motion for Reconsideration ; denying <u>46</u> Petition to Confirm Arbitration Award; and denying <u>58</u> Motion to Strike. Signed by Honorable Robert T. Dawson on July 19, 2011. (lw) (Entered: 07/19/2011)
07/20/2011	<u>66</u>		MANDATE of USCA dismissing for lack of jurisdiction <u>48</u> Notice of Appeal, filed by David Stebbins (Attachments: # <u>1</u> USCA Judgment, # <u>2</u> USCA Letter)(jn) (Entered: 07/20/2011)
07/22/2011	<u>67</u>	11	NOTICE OF APPEAL as to <u>65</u> Order on Motion for Reconsideration, Order on Motion for Miscellaneous Relief, Order on Motion to Strike by David Stebbins. (cc via CM/ECF: Jeffrey L. Spillyards, via U.S. Postal Service: David Stebbins) (Attachments: # <u>1</u> Motion and Affidavit for Permission to Appeal In Forma Pauperis, previous IFP granted 9/14/10)(lw) (Entered: 07/22/2011)
07/22/2011	<u>68</u>		APPEAL NOTICE to Counsel and Pro Se Parties re <u>67</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 07/22/2011)
07/22/2011	<u>69</u>	18	NOA SUPPLEMENT FORM re <u>67</u> Notice of Appeal, filed by David Stebbins. (lw) (Entered: 07/22/2011)

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

DAVID STEBBINS

PLAINTIFF

v.

Case No. 10-3086

WAL-MART STORES ARKANSAS, LLC

DEFENDANT

ORDER

Now on this 19th day of July 2011, there comes on for consideration Plaintiff's Supplement to Objection to Report and Recommendation (doc. 42), Suggestion in Support of Motion to Confirm Arbitration Award (doc. 43), Motion for Reconsideration and Brief (docs. 44-45), Petition to Confirm Arbitration Award and Brief (docs. 46-47), Suggestion in Support of Second Motion to Confirm Arbitration Award and Suggestion Support of Motion for Reconsideration of First Motion to Confirm Arbitration Award (doc. 51), Defendant's Response in Opposition to Plaintiff's Petition to Confirm Arbitration Award (doc. 54), Plaintiff's Motion to Strike Defendant's Response and Brief (docs. 58-59), Plaintiff's Supplement to Motion for Reconsideration (doc. 60), Plaintiff's Reply Suggestion to Motion to Confirm Arbitration Award (doc. 61), and Plaintiff's Supplement to Motions for Reconsideration and Second Motion to Confirm Arbitration Award (doc. 64).

On April 14, 2011, the Honorable Erin L. Setser, United States Magistrate Judge for the Western District of Arkansas, issued a report and recommendation (doc. 39) recommending that Plaintiff's

Motion to Confirm Arbitration (doc. 20) be denied and Defendant's Motion for Summary Judgment as to the arbitration claim (doc. 22) be granted. On April 20, 2011, after considering Plaintiff's objections and reviewing the case *de novo*, this Court adopted the report and recommendation (doc. 41).

Despite the fact that Plaintiff's various filings are untimely and frivolous, the Court has again reviewed this case *de novo* and, being well and sufficiently advised, finds its Order (doc. 41) adopting the report and recommendation, denying Plaintiff's Renewed Motion to Confirm Arbitration Award (doc. 20) and granting Defendant's Motion for Partial Summary Judgment Related to Arbitration Claim (doc. 22) was proper. Despite the fact that Plaintiff contends a second agreement to arbitrate exists between himself and Defendant, this argument fails for the same reasons previously recited in the report and recommendation and adopted by this Court. Accordingly, Plaintiff's Motion for Reconsideration (doc. 44), Petition to Confirm Arbitration Award (doc. 46), and Motion to Strike Defendant's Response (doc. 58) are DENIED.

IT IS SO ORDERED.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HARRISON DIVISION

JUL 22 2011

CHRIS R. JOHNSON, CLERK

PLAINTIFF

DAVID STEBBINS

vs.

Case No. 10-3086

WAL-MART STORES, INC.

DEFENDANTS

NOTICE OF APPEAL

Comes now Plaintiff David Stebbins, who respectfully submits the following notice of appeal of the District Court order #65.

It is so notified, this 20th day of July, 2011.



David Stebbins
1407 N Spring Rd,
APT #5
Harrison, AR 72601
870-204-6024
stebbinsd@yahoo.com

CERTIFICATE OF SERVICE

I, Plaintiff David Stebbins, hereby certify that a true and correct copy of my notice of appeal was served on Jeffrey Spillyards, attorney for the Defense, by faxing a copy thereof to 501-688-8807 on the 20th day of July, 2011.



David Stebbins
1407 N Spring Rd,
APT #5
Harrison, AR 72601
870-204-6024
stebbinsd@yahoo.com

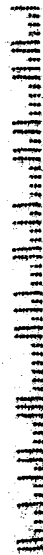
David Stebbins
1407 N Spring Rd
APT #5
Harrison, AR 72601

U.S. District Court
33 E. Mountain St.
Room 510
Fayetteville, AR 72701

RECEIVED
WD/AR
JUL 22 2011
U.S. CLERK'S OFFICE

NORTHWEST AIR MAIL
AR 72701
21 JUL 2011 PM

7270145351



U. S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS
FILED

JUL 22 2011

CHRIS R. JOHNSON, CLERK

RECEIVED

**Motion and Affidavit for Permission
to Appeal In Forma Pauperis**

David Stebbins

Appeal No. _____
District Court or Agency No. 10-3086

v.

Wal-Mart Stores, Inc.

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1716; 18 U.S.C. § 1621)

Signed: David Stebbins**Instructions**

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write in that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: 07-20-2011**My issues on appeal are:**

The District Court erred in refusing to confirm the arbitration awards

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Self-employment	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Income from real property (such as rental income)	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Interest and dividends	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Gifts	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____
Alimony	\$ <u>0</u>	\$ _____	\$ <u>0</u>	\$ _____

Child support	\$ 0	\$	\$ 0	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 674	\$	\$ 674	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 0	\$	\$ 0	\$
Other (specify): <u>SEC p.5</u>	\$ 25	\$	\$ 0	\$
Total monthly income:	\$ 699	\$	\$ 674	\$

2. List your employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
Reliable Heat & Air, LI	584 Animal Safari Rd, Bra	05/2009 to 06/2009	\$880
Wendy's	915 HWY 65, Harrison, AR	06/2008 to 07/2008	\$500
Wendy's	2050 N College Ave. Fayette	04/2008 to 05/2008	\$400

3. List your spouse's employment history, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay

4. How much cash do you and your spouse have? \$ 125.43

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial institution	Type of account	Amount you have	Amount your spouse has
First Federal Bank	checking	\$ 125.43	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

I only have two real "assets." One is my car, which is worth \$1,750 in mint condition (which it is not in) and the other is my computer, which is worth about \$300.

Home	(Value)	Other real estate	(Value)	Motor vehicle #1	(Value)
no assets				Make & year:	
		50		Model:	
				Registration #:	
Motor vehicle #2	(Value)	Other assets	(Value)	Other assets	(Value)
Make & year:					
Model:					
Registration #:					

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
no debtors		

7. State the persons who rely on you or your spouse for support.

Name	Relationship	Age
no dependents		

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.

	You	Your Spouse
Rent or home-mortgage payment (include lot rented for mobile home)	\$ 200	\$
Are real-estate taxes included? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Is property insurance included? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 30	\$
Home maintenance (repairs and upkeep)	\$ 0	\$
Food	\$ 200	\$
Clothing	\$ 20	\$

Laundry and dry-cleaning	\$ <u>0</u>	\$ _____
Medical and dental expenses	\$ <u>0</u>	\$ _____
Transportation (not including motor vehicle payments)	\$ <u>50</u>	\$ _____
Recreation, entertainment, newspapers, magazines, etc.	\$ <u>30</u>	\$ _____
Insurance (not deducted from wages or included in Mortgage payments)	\$ _____	\$ _____
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ <u>0</u>	\$ _____
Taxes (not deducted from wages or included in Mortgage payments) (specify): _____	\$ <u>0</u>	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card (name): _____	\$ _____	\$ _____
Department Store (name): _____	\$ _____	\$ _____
Other: <u>student loan</u>	\$ <u>30</u>	\$ _____
Alimony, maintenance, and support paid to others	\$ <u>0</u>	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other (specify): _____	\$ _____	\$ _____
Total monthly expenses:	\$ _____	\$ _____

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes ☒ No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid — or will you be paying — anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes ☒ No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

The "other" income is actually a lump sum of \$300 paid as a settlement for Case No. 10-3041 in the Western District of Arkansas.

13. State the address of your legal residence.

1407 N Spring Rd, APT #5

Harrison, AR 72601

Your daytime phone number: (870) 204-6024

Your age: 22 Your years of schooling: 15

Your social-security number: ***-**-4148

NOA SUPPLEMENT

Please note any additions or deletions to the style of the case from the style listed on the docket sheet (or attach an amended docket sheet with the final style of the case)

United States District Court - Western District of Arkansas - Harrison Division

Civil Case no.3:10CV3086; David Stebbins v. Wal-Mart, Inc.

Financial Status: Fee Paid? Yes ☐ No ☒

If NO, has IFP been granted? Yes ☒ No ☐

Is there a pending motion for IFP? Yes ☐ No ☒

Are there any other post - judgment motions? Yes ☒ No ☐

Please identify the court reporter.

If no court reporter, please check ☒

Name _____

Address _____

_____ Telephone Number _____

Criminal cases only:

Is the defendant incarcerated? Yes ☐ No ☐

Please list all other defendants in this case, if there were multiple defendants.

Special Comments: _____
